

MINUTES OF THE MEETING
OF THE CITY COUNCIL OF THE
CITY OF BURLINGTON

August 7, 2007

7:30 P.M.

The City Council of the City of Burlington held a regularly scheduled meeting in the Council Chamber, Municipal Building, 425 South Lexington Avenue, Burlington, N. C., 27216-1358, on August 7, 2007, at 7:30 p.m.

Mayor Stephen M. Ross presided

Councilmembers present: Mayor Ross, Councilmembers Jones, Huffman, Starling and Wall

Councilmembers absent: None

Harold Owen, City Manager, present

Robert M. Ward, City Attorney, present

Jondeen D. Terry, City Clerk, present

INVOCATION: Councilmember Don Starling

CALL TO ORDER: Mayor Stephen M. Ross

RECOGNITION:

Jerry Richardson - N.C. Amateur Men's Golf Champion

RECOGNITION OF EAGLE SCOUTS

MINUTES

Mayor Ross called for approval of the City Council minutes of the meeting of July 17, 2007.

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to approve the minutes of the meeting held on July 17, 2007.

ADD-ON - CONSENT AGENDA - Appointments to Boards and Commission

ADOPTION OF AGENDA

Upon motion by Councilmember Jones, seconded by Councilmember Wall, it was resolved unanimously to adopt the agenda with the add-on.

CONSENT AGENDA:

- A) To award a contract to Carolina Environmental Services, Inc., to purchase the automated side loader utilizing the "piggyback" General Statute 143-129 in the amount of \$194,985.00.
- B) To approve the 2007-2008 contract for fire services with the Whitsett Volunteer Fire Department, Inc., in the amount of \$41,449.00.
- C) To adopt a resolution setting a date of public hearing for August 21, 2007, to consider the Joe C. Davidson Park Contiguous Voluntary Annexation.

07-18

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and,

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 9:00 am on August 21, 2007.

Section 2. The area proposed for annexation is described as follows:

BEGINNING at a point in Boone Station Township in the southeast corner of property owned by the City of Burlington (also known as Joe C. Davidson Park), said point being the north right-of-way line of Rural Retreat Road (N.C. SR-1300 and in the West right-of-way line of St. Mark's Church Road (N.C. SR- 1301); and proceeding along the northern right-of-way line of Rural

Retreat Road, North 87 deg, 03' 59" West a distance of 1,274.63 feet to a point, said point being the southwest corner of Joe C. Davidson Park and also in the line with the property of Michael A. Taylor; thence with the line of Michael A. Taylor, North 13 deg. 00' 15" East a distance of 1687.58 feet to a point, said point being the northwest corner of Joe C. Davidson Park and also in the line with Herbert L. Whitfield; thence along the line with Herbert Whitfield, Charles Hrdlicka, Gary L. Wilson and Margaret Johnson, South 69 deg. 23' 42" East a distance of 989.79 feet to a point; thence in the line with St. Mark's Church Property, South 29 deg. 30' 02" East a distance of 135.49 feet to a point; thence with the line of Abb J. Gentry and John T. Wagoner, South 26 deg. 06' 00" West a distance of 354.02 feet to a point; thence with the line of John T. Wagoner, South 64 deg. 06' 17" East a distance of 259.45 feet to a point in the right-of-way of St. Mark's Church Road; thence with the right-of-way of St. Mark's Church Road, South 26 deg. 06' 00" West a distance of 89.39 feet to a point; thence along a curve following the right-of-way line of St. Mark's Church Road with a radius of 1402.36 feet, an arc distance of 753.76 feet and having a chord of South 10 deg. 42' 07" West a distance of 744.72 feet to a point in the right-of-way of Rural Retreat Road, said point being the point of BEGINNING and including 39.776 acres and being as shown on "Final Plat - Subdivision of Property of City of Burlington, Joe Davidson Park Property" as prepared by the City of Burlington Engineering Department, dated March 3, 2004 and being Drawing No. 737-A.

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

- D) To adopt a resolution setting a date of public hearing for August 21, 2007, to consider the Highland Elementary School Contiguous Voluntary Annexation.

07-19

RESOLUTION FIXING DATE OF PUBLIC HEARING ON QUESTION OF ANNEXATION PURSUANT TO G.S. 160A-31

WHEREAS, a petition requesting annexation of the contiguous area described herein has been received; and,

WHEREAS, certification by the City Clerk as to the sufficiency of the petition has been made.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Burlington, North Carolina that:

Section 1. A public hearing on the question of annexation of the area described herein will be held at the Municipal Building at 9:00 am on August 21st, 2007.

Section 2. The area proposed for annexation is described as follows:

That certain tract or parcel of land in Boone Station Township, Alamance County, North Carolina, adjoining the lands Martin Marietta Materials, Inc., George W. Moody, John A. Moody, the public right of way of Bonnar Bridge Parkway, Sandler at Wakefield, LLC, and being more particularly described as follows:

BEGINNING at an iron stake in the southern margin of the right of way of Bonnar Bridge Parkway said beginning point being the northeast corner of John A. Moody (Lot 2B, Plat Book 71 Page 391 Alamance County registry) running thence with southern right of way of Bonnar Bridge Parkway N 83°50'14" E 48.58 feet to and iron stake; thence N 87°16'12" E 167.00 feet to an iron stake; thence N 83°50'14" E 173.46 feet to an iron stake; thence along a curve to the left having a radius of 645.00 feet and a chord bearing and distance of N 77°41'14" E 138.20 feet to an iron stake on the said southern right of way of Bonnar Bridge Parkway said iron stake being a corner with Sandler at Wakefield, LLC; thence leaving said right of way and running with the western line of Sandler at Wakefield, LLC S 16°41'10" E 53.16 feet to an iron stake; thence S 10°53'30" W 82.81 feet to an iron stake; thence S 49°07'03" W 210.40 feet to an iron stake; thence S 32°31'06" E 160.34 feet to an iron stake; thence S 38°33'21" W 59.87 feet to an iron stake; thence S 50°04'59" E 209.65 feet to an iron stake; thence S 31°04'57" W 66.73 feet to an iron stake; thence S 55°18'15" E 224.89 feet to an iron stake; thence S 16°18'10" E 258.00 feet to an iron stake; thence S 31°04'57" W 367.08 feet to an iron stake in the line of Martin Marietta Materials, Inc.; running thence with the line of said Martin Marietta Materials, Inc. N 58°55'03" W 950.58 feet to an iron stake being a corner with George W. Moody; running thence with the eastern line of said Moody N 35°35'53" E 245.05 feet to an iron stake; thence N 39°11'20" W 301.98 feet to an iron stake being a corner with John A. Moody; running thence with the line of said John A. Moody N 36°19'29" E 432.33 feet to the point and place of BEGINNING and

containing 18.009 acres, more or less, and being all of lot number 2 of the final plat "Mackintosh East" by Alley Williams Carmen & King, Job Number 05134 and dated February 20, 2006 as recorded in Plat Book 70 Page 403 of the Alamance County Register of Deeds.

Section 3. Notice of the public hearing shall be published in The Times-News, a newspaper having general circulation in the City of Burlington, at least 10 days prior to the date of the public hearing.

- E) To adopt the revised Sewer Use Ordinance to satisfy the North Carolina Division of Water Quality regulatory requirements.

07-26

Sewer Use Ordinance CITY OF BURLINGTON

Revised and Adopted
August 7, 2007
June 21, 1994
May 19, 1987

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SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Burlington, hereafter referred to as the City, and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403).

The objectives of this ordinance are:

- (a) To prevent the introduction of pollutants into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
- (b) To prevent the introduction of pollutants into the municipal wastewater system which will pass through the system, inadequately treated, into any waters of the State or otherwise be incompatible with the system;
- (c) To promote reuse and recycling of industrial wastewater and sludges from the municipal system;
- (d) To protect both municipal personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;
- (e) To provide for equitable distribution of the cost of operation, maintenance and improvement of the municipal wastewater system; and
- (f) To ensure that the municipality complies with its NPDES or Non-discharge Permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the municipal wastewater system is subject.

This ordinance provides for the regulation of direct and indirect contributors to the municipal wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. Failure to comply with the provisions of this Ordinance shall constitute a violation of

this Ordinance and the City may take appropriate legal actions as required to ensure compliance and enforcement.

This ordinance shall apply to all persons inside or outside the City of Burlington who are, by contract or agreement, users of the municipal wastewater system, as authorized by N.C.G.S. 160A-312 and/or 153A-275. The City shall designate an administrator of the POTW and pretreatment program hereafter referred to as the Director of Utilities. Except as otherwise provided herein, the Director of Utilities shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or imposed upon the Director of Utilities may be delegated by the Director of Utilities to other City personnel. By discharging wastewater into the municipal wastewater system, governmental, private, or industrial users located outside the City limits agree to comply with the terms and conditions established in this Ordinance, as well as any permits, enforcement actions, or orders issued hereunder.

1.2 Definitions And Abbreviations

(a) Unless the context specifically indicates otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated:

- (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251, et seq.
- (2) Approval Authority. The Director of the Division Of Water Quality of the North Carolina Department of Environment and Natural Resources or his designee.
- (3) Authorized Representative of the Industrial User.
 - (i) If the industrial user is a corporation, authorized representative shall mean:
 - A) the president, secretary, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 - B) the manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of

making major capital investment recommendations, and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

- (ii) If the industrial user is a partnership or sole proprietorship, an authorized representative shall mean a general partner or the proprietor, respectively.
 - (iii) If the industrial user is a Federal, State or local government facility, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (iv) The individuals described in paragraphs i-iii above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the City.
 - (v) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the Director of Utilities prior to or together with any reports to be signed by an authorized representative.
- (4) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory

- procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g. mg/l).
- (5) Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.
 - (6) Bypass. The intentional diversion of waste streams from any portion of a user's treatment facility.
 - (7) Categorical Standards. National Categorical Pretreatment Standards or Pretreatment Standards as defined by the U.S. EPA.
 - (8) City. The City of Burlington
 - (9) Cooling Water. The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat. The water does not come into contact with any raw material, intermediate product, waste product, or finished product.
 - (10) Control Authority. The term "Control Authority" shall refer to the City of Burlington based on the City's approved Pretreatment Program under the provisions of 40 CFR 403.11.
 - (11) Direct Discharge. The discharge of treated or untreated wastewater directly to the waters of the State of North Carolina.
 - (12) Director of Utilities. The person designated by the City to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this ordinance, or his duly authorized representative.
 - (13) Environmental Protection Agency, or EPA. The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
 - (14) Grab Sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.
 - (15) Holding Tank Waste. Any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
 - (16) Indirect Discharge or Discharge. The discharge or the introduction from any nondomestic source

regulated under section 307(b), (c), or (d) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

- (17) Industrial User or User. Any industrial user of the City's wastewater system or any person/entity that is a source of indirect discharge.
- (18) Interference. The inhibition, or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or Non-discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits under and in accordance with section 405 of the Act, (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. §6901, et seq.), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any State sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (19) Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (20) National Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. §1317) which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
- (21) National Pollutant Discharge Elimination System or NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. §1342) or pursuant to N.C.G.S. 143-215.1 by the State under delegation from EPA.
- (22) National Prohibitive Discharge Standard or Prohibitive Discharge Standard. Absolute prohibitions against the discharge of certain

substances; these prohibitions appear in section 2.1 of this ordinance and are developed under the authority of Section 307(b) of the Act and 40 CFR, section 403.5.

(23) New Source.

- (i) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with Section 307(c), provided that:
 - (A) the building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (B) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (C) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (ii) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of section (i)(B) or (C) above but otherwise alters, replaces, or adds to existing process or production equipment.
- (iii) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - (A) Begun, or caused to begin, as part of a continuous on-site construction program:

1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- (B) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this definition.
- (24) Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (25) Non-discharge Permit. A disposal system permit issued by the State pursuant to N.C.G.S. 143-215.1.
- (26) Pass Through. A discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or Non-discharge Permit, or a downstream water quality standard.
- (27) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, heirs, agents or assigns. This definition includes all Federal, State, and local government entities.
- (28) pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.
- (29) Pollutant. Any "waste" as defined in N.C.G.S. 143-213(18) and dredged spoil, solid waste,

incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor) discharged into water.

- (30) POTW Director or Director of Utilities. The City administrator designated with the responsibility for the pretreatment program and enforcement of this Sewer Use Ordinance.
- (31) POTW Treatment Plant. That portion of the POTW designed to provide treatment to wastewater.
- (32) Pretreatment or Treatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (33) Pretreatment Program. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the City in compliance with 40 CFR 403.8 and approved by the Approval Authority as authorized by N.C.G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.
- (34) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.
- (35) Pretreatment Standards. Prohibited discharge standards, categorical standards, and local limits.
- (36) Publicly Owned Treatment Works (POTW) or Municipal Wastewater System. A treatment works as defined by section 212 of the Act, (33 U.S.C. §1292) which is owned in this instance by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes

sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this ordinance, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the City who are, by contract or agreement with the City, or in any other way, users of the POTW of the City.

- (37) Severe Property Damage. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (38) Significant Industrial User. Any industrial user of the wastewater disposal system who
 - (i) has an average daily process wastewater flow of 25,000 gallons or more, or
 - (ii) contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge, or
 - (iii) is required to meet a National categorical pretreatment standard, or
 - (iv) is found by the City, the Division Of Water Quality or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.
- (39) Significant Noncompliance or Reportable Noncompliance. A status of noncompliance defined as follows:
 - (i) Violations of wastewater discharge limits.
 - A. Chronic Violations. Sixty-six percent or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period.
 - B. Technical Review Criteria (TRC) violations. Thirty-three percent or more of the measurements equal or exceed the TRC times

the limit (maximum or average) in a six-month period. There are two groups of TRCs:

For the conventional pollutants: BOD,

TSS, fats, oil and grease TRC = 1.4

For all other pollutants TRC = 1.2

- C. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public.
 - D. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (ii) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
 - (iii) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date.
 - (iv) Failure to accurately report noncompliance.
 - (v) Any other violation or group of violations that the control authority considers to be significant.
- (40) Slug Load or Discharge. Any discharge at a flow rate or concentration which has a reasonable potential to cause Interference or Pass-Through, or in any other way violates the POTW's regulations, local limits, or Industrial User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 2.1 of this ordinance.
 - (41) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial

Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

- (42) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting therefrom.
- (43) Total Suspended Solids (TSS). The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.
- (44) Upset. An exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (45) Wastewater. The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (46) Wastewater Permit. As set forth in section 4.2 of this ordinance.
- (47) Waters of the State. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.
- (b) This ordinance is gender neutral and the masculine gender shall include the feminine and vice-versa.
- (c) Shall is mandatory; may is permissive or discretionary.
- (d) The use of the singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

- (e) The following abbreviations when used in this ordinance, shall have the designated meanings:

(1)	BOD	Biochemical Oxygen Demand
(2)	CFR	Code of Federal Regulations
(3)	COD	Chemical Oxygen Demand
(4)	EPA	Environmental Protection Agency
(5)	gpd	Gallons per day
(6)	l	Liter
(7)	mg	Milligrams
(8)	mg/l	Milligrams per liter
(9)	N.C.G.S.	North Carolina General Statutes
(10)	NPDES	National Pollution Discharge Elimination System
(11)	O & M	Operation and Maintenance
(12)	POTW	Publicly Owned Treatment Works
(13)	RCRA	Resource Conservation and Recovery Act
(14)	SIC	Standard Industrial Classification
(15)	SWDA	Solid Waste Disposal Act
(16)	TSS	Total Suspended Solids
(17)	TKN	Total Kjeldahl Nitrogen
(18)	U.S.C	United States Code.

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- (a) General Prohibitions. No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any National, State, or local pretreatment standards or requirements.
- (b) Specific Prohibitions. No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:
- (1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed

cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

- (2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference but in no case solids greater than one half inch (1/2") in any dimension such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes..
- (3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (4) Any wastewater having a pH less than 5.0 or more than 10 or wastewater having any other corrosive property capable of causing damage to the POTW or equipment.
- (5) Any wastewater containing pollutants, including oxygen-demanding pollutants, (BOD, etc) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW.
- (6) Any wastewater having a temperature greater than 150° F (66° C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104° F (40° C).
- (7) Any pollutants which result in the presence of toxic gases, vapors or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the Director of

Utilities in accordance with section 2.9 of this ordinance.

- (9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- (10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
- (11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses.
- (12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director of Utilities in compliance with applicable State or Federal regulations.
- (13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the Director of Utilities.
- (14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than one hundred (100) mg/l. The City may require grease, oil, or sand interceptors and proper maintenance of the same if there is evidence of floatable fats, waxes, grease, or oils.

- (15) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (16) Any medical wastes, except as specifically authorized by the Director of Utilities in a wastewater discharge permit.
- (17) Any material containing ammonia, ammonia salts, or other chelating agents, which will produce metallic complexes that interfere with the municipal wastewater system.
- (18) Any material that would be identified as hazardous waste according to 40 CFR Part 261 if not disposed of in a sewer except as may be specifically authorized by the Director of Utilities.
- (19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200.
- (20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (21) Recognizable portions of the human or animal anatomy.
- (22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
- (23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.

Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the municipal wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

When the Director of Utilities determines that a user(s) is contributing to the POTW, any of the above enumerated substances in such amounts which may cause or contribute to interference of POTW operation or pass through, the Director of Utilities shall:

- 1) advise the user(s) of the potential impact of the contribution on the POTW in accordance with section 8.1; and
- 2) take appropriate actions in accordance with section 4 for such user to protect the POTW from interference or pass through.

2.2 National Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

- (a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Utilities may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (b) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director of Utilities shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (c) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (d) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.3 Local Limits

An industrial waste survey is required prior to a User discharging wastewater containing in excess of the following average discharge limits.

BOD	300	mg/l
TSS	150	mg/l
NH ₃	25	mg/l
Arsenic	0.003	mg/l
Cadmium	0.003	mg/l

Chromium	0.05	mg/l	(total chromium)
Copper	0.061	mg/l	
Cyanide	0.015	mg/l	
Lead	0.049	mg/l	
Mercury	0.0003	mg/l	
Nickel	0.021	mg/l	
Silver	0.005	mg/l	
Zinc	0.175	mg/l	
Phenolics	1.00	mg/l	compounds not removed by POTW process
Oil & grease	100	mg/l	Mineral, petroleum, animal or vegetable origin

Industrial Waste Survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading are not exceeded for particular pollutants of concern. User-specific local limits for appropriate pollutants of concern shall be included in wastewater permits. The Director of Utilities may impose mass based limits in addition to, or in place of concentration based limits.

Tri-butyl tin oxides or hydrides (biocides) are banned

Alkyl phenol ethoxylates in concentrations exceeding 5% by weight are banned

2.4 State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

2.5 Right of Revision

The City reserves the right to establish limitations and requirements which are more stringent than those required by either State or Federal regulation if deemed necessary to comply with the objectives presented in section 1.1 of this ordinance or the general and specific prohibitions in section 2.1 of this ordinance, as is allowed by 40 CFR 403.4.

2.6 Dilution

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the City or State.

2.7 Pretreatment of Wastewater

(a) Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and wastewater permits issued under section 4.2 of this ordinance and shall achieve compliance with all National categorical pretreatment standards, local limits, and the prohibitions set out in section 2.1 of this ordinance within the time limitations as specified by EPA, the State, or the Director of Utilities, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the City for review, and shall be approved by the Director of Utilities before construction of the facility. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the City under the provisions of this ordinance. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the Director of Utilities prior to the user's initiation of the changes.

(b) Additional Pretreatment Measures

1. Whenever deemed necessary, the Director of Utilities may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this ordinance.
2. The Director of Utilities may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
3. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Utilities, they are necessary for the proper handling of wastewater containing excessive

amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Director of Utilities and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

4. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

2.8 Accidental Discharge/Slug Control Plans

(a) The Director of Utilities shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in Section 1.2(a)(40). All SIUs must be evaluated within one year of being designated an SIU. The Director of Utilities may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the Director of Utilities may develop such a plan for any user.

(b) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also see Sections 5.5 and 5.6.

(c) An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Director of Utilities of any accidental or slug discharge, as required by section 5.6 of this ordinance; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

2.9 Hauled Wastewater

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the Director of Utilities, and at such times as are established by the Director of Utilities. Such waste shall not violate section 2 of this ordinance or any other requirements established by the City. The Director of Utilities may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The Director of Utilities shall require haulers of industrial waste to obtain wastewater discharge permits. The Director of Utilities may require generators of hauled industrial waste to obtain wastewater discharge permits. The Director of Utilities also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.
- (c) Industrial waste haulers may discharge loads only at locations designated by the Director of Utilities. No load may be discharged without prior consent of the Director of Utilities. The Director of Utilities may collect samples of each hauled load to ensure compliance with applicable standards. The Director of Utilities may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (d) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

SECTION 3 - FEES

3.1 Purpose

It is the purpose of this chapter to provide for the recovery of costs from users of the City of Burlington wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in a schedule of sewer use charges and fees by the Director of Utilities and approved by the City Council. A copy of these charges and fees will be made available from the Director of Utilities, the Finance Department and other sources.

3.2 User Charges

A user charge shall be levied on all users including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

- (a) The user charge shall reflect, at least, the cost of debt service, operation and maintenance (including replacement) of the POTW.
- (b) Each user shall pay its proportionate cost based on volume of flow.
- (c) The Manager of the City shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the City Council for adjustments in the schedule of charges and fees as necessary.
- (d) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users.

3.3 Industrial Surcharges

Industrial wastewater with components exceeding the design capacity of the POTW may be assessed a surcharge in addition to the basic user fee. The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater. Currently the City assesses surcharges for Biochemical Oxygen Demand (BOD) and Total Suspended Solids (TSS), and other parameters may be identified as eligible for surcharge. The amount of the surcharge rate will be established in the City's Schedule of Charges and Fees.

- (a) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:
 - (1) Metered water consumption as shown in the records of meter readings maintained by the City; or
 - (2) If required by the City, other flow monitoring devices, which measure the actual volume of wastewater discharged to the sewer, may be used. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the City. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the City.
 - (3) Where any user procures all or part of his water supply from sources other than the City, the user shall install and maintain at his own expense a flow measuring device of a type approved by the City.
- (b) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the City. Samples shall be collected in such a manner as to be representative of the actual discharge (following pretreatment and prior to blending) and shall be analyzed using procedures set forth in 40 CFR Part 136.
- (c) The determination of the character and concentration of the constituents of the wastewater discharge by the Director of Utilities or his duly appointed representatives shall be binding as a basis for charges.

3.4 Pretreatment Program Administration Charges

The schedule of charges and fees adopted by the City may include charges and fees for:

- (a) reimbursement of costs of setting up and operating the Pretreatment Program;
- (b) monitoring, inspections and surveillance procedures;
- (c) reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (d) permitting;
- (e) other fees as the City may deem necessary to carry out the requirements of the Pretreatment Program.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

4.1 Wastewater Dischargers

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the City. When requested by the Director of Utilities, a user must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. The Director of Utilities is authorized to prepare a form for this purpose and may periodically require users to update this information.

4.2 Wastewater Permits

All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the Director of Utilities to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the Director of Utilities be required to obtain a wastewater discharge permit for non-significant industrial users.

(a) Significant Industrial User Determination

All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the Director of Utilities a significant industrial user determination. If the Director of Utilities determines or suspects that the proposed discharge fits the significant industrial user criteria he will require that a significant industrial user permit application be filed.

(b) Significant Industrial User Permit Application

Users required to obtain a significant industrial user permit shall complete and file with the City, an application in the form prescribed by the Director of Utilities, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in 4.2(a) above. In support of the

application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and physical location, (if different from the address);
- (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics including but not limited to those mentioned in section 2 of this ordinance, any of the priority pollutants (section 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to section 304(g) of the Act and contained in 40 CFR, Part 136, as amended and as required in Section 5.10 and 5.11;
- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
- (6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location and elevation;
- (7) Description of activities, facilities and plant processes on the premises including all materials which are or could be accidentally or intentionally discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any City, State, or Federal Pretreatment Standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide

such additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule:

- (i) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine (9) months.
- (ii) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Director of Utilities including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and if appropriate, the steps being taken by the user to return to the established schedule. In no event shall more than nine (9) months elapse between such progress reports to the Director of Utilities.
- (10) Each product produced by type, amount, process or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) If subject to a categorical standard, a baseline monitoring report in accordance with 40 CFR 403.12(b) and 15A NCAC 2H .0908(a), as outlined in section 5.1 of this ordinance.
- (14) Any other information as may be deemed by the Director of Utilities to be necessary to evaluate the permit application.
- (c) Application Signatories and Certification
All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Control Authority and/or Municipality as defined in Section 1.2(a)(3) and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared

under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(d) Application Review And Evaluation

The Director of Utilities will evaluate the data furnished by the user and may require additional information.

- (1) The Director of Utilities is authorized to accept applications for the City and shall refer all applications to the POTW staff for review and evaluation.
- (2) Within 30 days of receipt the Director of Utilities shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(e) Tentative Determination and Draft Permit

- (1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.
- (2) If the staff's tentative determination in Paragraph (1) above is to issue the permit, the following additional determinations shall be made in writing:
 - (i) proposed discharge limitations for those pollutants proposed to be limited;
 - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and

- (iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
- (3) The staff shall organize the determinations made pursuant to Paragraphs (1) and (2) above and the general permit conditions of the City into a significant industrial user permit.
- (f) Permit Synopsis

A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of such fact sheets shall include at least the following information:

 - (1) a sketch and detailed description of the industrial facilities and pretreatment facilities including the location of all points of discharge to the POTW and all established compliance monitoring points.
 - (2) a quantitative description of the discharge described in the application which includes at least the following:
 - (i) the rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;
 - (ii) the actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and,
 - (iii) the basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.
- (g) Final Action On Significant Industrial User Permit Applications
 - (1) The Director of Utilities shall take final action on all applications not later than 90 days following receipt of a complete application.
 - (2) The Director of Utilities is authorized to:
 - (i) issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this ordinance and N.C.G.S. 143-215.1;
 - (ii) issue a significant industrial user permit containing time schedules for achieving

compliance with applicable pretreatment standards and requirements;

- (iii) modify any permit upon not less than 60 days notice and pursuant to section 4.2(i) of this ordinance;
- (iv) revoke any permit pursuant to section 8.1 of this ordinance;
- (v) suspend a permit pursuant to section 8.1 of this Ordinance;
- (vi) deny a permit application when in the opinion of the Director of Utilities such discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of N.C.G.S. 143-215.1.

(h) Hearings

The local government may conduct hearings in accordance with its regular hearing procedure.

- (1) Initial Adjudicatory Hearing. An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section 8.2, or one issued an administrative order under section 8.1 shall have the right to an adjudicatory hearing before a hearing officer designated by the Director of Utilities upon making written demand, identifying the specific issues to be contested, to the Director of Utilities within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand for a hearing. The Director of Utilities shall transmit a copy of the hearing officer's decision by registered or certified mail.
- (i) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until

either the conclusion of judicial review or until the parties reach a mutual resolution.

- (ii) Renewed Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (2) Final Appeal Hearing. Any decision of a hearing officer made as a result of an adjudicatory hearing held under section 4.2(h)(1) above may be appealed, to the City Council upon filing a written demand within 10 days of receipt of notice of the decision. Hearings held under this Subdivision shall be conducted in accordance with the City Council's normal procedures for public hearings. Failure to make written demand within the time specified herein shall bar further appeal. The City Council shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.
 - (3) Official record. When a final decision is issued under section 4.2(h)(2) above, the Council serving the City shall prepare an official record of the case that includes:
 - (i) All notices, motions, and other like pleadings;
 - (ii) A copy of all documentary evidence introduced;
 - (iii) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken.
 - (iv) A copy of the final decision of the City Council serving the City.
 - (4) Judicial Review. Any person against whom a final order or decision of the City Council is entered, pursuant to the hearing conducted under section 4.2(h)(2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior

Court of Alamance County along with a copy to the City. Within 30 days after receipt of the copy of the petition of judicial review, the City Council shall transmit to the reviewing court the original or a certified copy of the official record.

(i) Permit Modification

- (1) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance
 - (i) changes in the ownership of the discharge when no other change in the permit is indicated,
 - (ii) a single modification of any compliance schedule not in excess of four months,
 - (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.
- (2) Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter 1, Subchapter N, Parts 405-471 and incorporated herein. Within 9 months of the promulgation of a National categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a user, subject to a National categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by section 4.2(b), the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable National categorical pretreatment standard.
- (3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by N.C.G.S. 143-215.1(b) for modifications.

(j) Permit Conditions

Wastewater Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other ordinances, regulations, charges and fees established by the City, State, or Federal authority.

The conditions of Wastewater Discharge Permits shall be uniformly enforced by the City in accordance with this Ordinance, and applicable State and Federal regulations.

- (1) The Director of Utilities shall have the authority to grant a permit with such conditions attached as he believes necessary to achieve the purpose of this ordinance and N.C.G.S. 143-215.1. Wastewater permits shall contain, but are not limited to, the following:
 - (i) a statement of duration (in no case more than five years);
 - (ii) a statement of non-transferability;
 - (iii) applicable effluent limits based on categorical standards or local limits or both;
 - (iv) applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State and local law;
 - (v) requirements for notifying the POTW in the event of an accidental discharge or slug load as defined in Section 1.2(a)(40);
 - (vi) requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 1.2(a)(40), if determined by the Director of Utilities to be necessary for the User and,
 - (vii) requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 1.2(a)(40). Also see Sections 5.5 and 5.6;
 - (viii) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
 - (i) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.

- (ii) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
- (iii) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
- (iv) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
- (v) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system.
- (vi) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
- (vii) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
- (vii) Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within thirty (30) days where self-monitoring indicates a violation(s).
- (ix) Compliance schedules for meeting pretreatment standards and requirements.
- (x) Requirements for submission of periodic self-monitoring or special notification reports.
- (xi) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 5.13 and affording the Director of Utilities, or his representatives, access thereto.
- (xii) Requirements for prior notification and approval by the Director of Utilities of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system.
- (xiii) Requirements for the prior notification and approval by the Director of Utilities of any change in the manufacturing and/or pretreatment process used by the permittee.

- (xiv) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the terms of the permit.
 - (xv) Other conditions as deemed appropriate by the Director of Utilities to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.
- (k) **Permit Duration**
Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period of less than a year or may be stated to expire on a specific date. The terms and conditions of the Permit may be subject to modification by the City during the life of the Permit as limitations or requirements are modified. The user shall be informed of any proposed changes in his Permit not less than sixty (60) days prior to the effective date of change.
- (l) **Permit Transfer**
Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.
- (m) **Permit Reissuance**
A significant industrial user shall apply for permit reissuance (renewal) by submitting a complete permit application in accordance with section 4.2 a minimum of 180 days prior to the expiration of the existing permit.

SECTION 5 - REPORTING REQUIREMENTS

5.1 Baseline Monitoring Reports

- (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Director of Utilities a report which contains the information listed in paragraph (b), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users

subsequent to the promulgation of an applicable categorical standard, shall submit to the Director of Utilities a report which contains the information listed in paragraph (b), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (b) Users described above shall submit the information set forth below.
- (1) Identifying Information. The name and address of the facility, including the name of the operator and owner and their contact information if different from above.
 - (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of Pollutants.
 - (i) The categorical pretreatment standards applicable to each regulated process.
 - (ii) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Director of Utilities, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 5.10 of this ordinance.
 - (iii) Sampling must be performed in accordance with procedures set out in section 5.11 of this

ordinance and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).

- (6) Certification. A statement, reviewed by the user's current authorized representative as defined in Section 1.2(a)(3) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 5.2 of this ordinance.
- (8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with section 4.2(c) of this ordinance.

5.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by section 5.1(b)(7) of this ordinance:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;
- (c) The user shall submit a progress report to the Director of Utilities no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if

appropriate, the steps being taken by the user to return to the established schedule; and

- (d) In no event shall more than nine (9) months elapse between such progress reports to the Director of Utilities.

5.3 Reports on Compliance with Categorical Pretreatment Standard, Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Utilities a report containing the information described in section 5.1(b) (4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 4.2(c) of this ordinance.

5.4 Periodic Compliance Reports

Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

- (a) All significant industrial users shall, at a frequency determined by the Director of Utilities but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in section 5.10 and 5.11 of this ordinance. All periodic compliance reports must be signed and certified in accordance with section 4.2(c) of this ordinance.
- (b) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Director of Utilities, using the procedures prescribed in section 5.10 and 5.11 of

this ordinance, the results of this monitoring shall be included in the report.

5.5 Reports of Changed Conditions

Each user must notify the Director of Utilities of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. See Section 5.6(d) for other reporting requirements.

- (a) The Director of Utilities may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 4.2 of this ordinance.
- (b) The Director of Utilities may issue a wastewater discharge permit under section 4.2 of this ordinance or modify an existing wastewater discharge permit under section 4.2 of this ordinance in response to changed conditions or anticipated changed conditions.
- (c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

5.6 Reports of Potential Problems

- (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 1.2(a)(40), that may cause potential problems for the POTW, the user shall immediately telephone and notify the Director of Utilities of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by the Director of Utilities, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such

notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 1.2(a)(40).

5.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Utilities as the Director of Utilities may require.

5.8 Notice of Violation/Repeat Sampling and Reporting

- (a) If sampling performed by a user indicates a violation, the user must notify the Director of Utilities within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director of Utilities within thirty (30) days after becoming aware of the violation. If allowed by the Director of Utilities, the user is not required to resample:
 - (i) if the Director of Utilities monitors at the user's facility at least once a month; or
 - (ii) if the Director of Utilities samples between the user's initial sampling and when the user receives the results of this sampling.
- (b) If the Director of Utilities does not require the user to perform any self-monitoring and the POTW sampling of the user indicates a violation, the Director of Utilities shall repeat the sampling and obtain the results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:
 - (i) the Director of Utilities monitors at the user's facility at least once a month; or

- (ii) the Director of Utilities samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (iii) the Director of Utilities requires the user to perform sampling and submit the results to the Director of Utilities within the 30 day deadline of the POTW becoming aware of the violation.

5.9 Notification of the Discharge of Hazardous Waste

The City prohibits the discharge of any hazardous wastes without notification and approval of the Director of Utilities.

- (a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 5.5 of this ordinance. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 5.1, 5.3, and 5.4 of this ordinance.
- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in

which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.

- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director of Utilities, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.

5.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

5.11 Grab and Composite Sample Collection

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not

be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (b) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the User's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for BMR and 90 Day Compliance Reports. Additionally, the Director of Utilities may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Utilities. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

5.12 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

5.13 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a

period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the City, or where the user has been specifically notified of a longer retention period by the Director of Utilities.

5.14 Electronic Reporting

The Director of Utilities may develop procedures for receipt of electronic reports for any reporting requirements of this Ordinance. Such procedures shall comply with 40 CFR Part 3. These procedures shall be enforceable under Section 8 of this Ordinance.

SECTION 6 - COMPLIANCE MONITORING

6.1 Monitoring Facilities

The City requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the City may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the requirements of the City and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the City.

6.2 Inspection and Sampling

The City will inspect the facilities of any user to ascertain whether the purpose of this ordinance is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the City, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The City, approval authority and EPA shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City, approval authority and EPA will be permitted to enter, without delay, for the purposes of

performing their specific responsibilities. Denial of the Director of Utilities's (or his designee), Approval Authority's, or EPA's access to the user's premises shall be a violation of this ordinance. Unreasonable delays may constitute denial of access.

6.3 Search Warrants

If the Director of Utilities (or his designee), Approval Authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director of Utilities, Approval Authority, or EPA may seek issuance of a search warrant from a Judicial Official of the Court of Alamance County having jurisdiction within the City.

SECTION 7 - CONFIDENTIAL INFORMATION

Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Director of Utilities that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, Non-discharge permit and/or the pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

All records relating to compliance with Pretreatment Standards shall be made available to officials of the approval authority and EPA upon request.

SECTION 8 - ENFORCEMENT

8.1 Administrative Remedies

(a) Notification Of Violation

Whenever the Director of Utilities finds that any industrial user has violated or is violating this Ordinance, wastewater permit, or any prohibition, limitation or requirements contained therein or any other pretreatment requirement the Director of Utilities may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the City by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(b) Consent Orders

The Director of Utilities is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. Such orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to section 8.1(d), below.

(c) Show Cause Hearing

The Director of Utilities may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this ordinance or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the Director of Utilities determines that a show cause order should be issued, a notice shall be served on the user specifying the

time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

The Director of Utilities shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under section 8.2 nor is any action or inaction taken by the Director of Utilities under this section subject to an administrative appeal under section 4.2(h).

(d) Administrative Orders

When the Director of Utilities finds that an industrial user has violated or continues to violate this ordinance, permits or orders issued hereunder, or any other pretreatment requirement, the Director of Utilities may issue an order to cease and desist all such violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation;
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(e) Emergency Suspensions

The Director of Utilities may suspend the wastewater treatment service and/or wastewater permit when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an

imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any condition of its NPDES or Non-discharge permit.

Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the Director of Utilities shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The Director of Utilities shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Director of Utilities prior to the date of the above-described hearing.

(f) Termination of Permit or Permission to Discharge

The Director of Utilities may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:

- (1) Failure to accurately report the wastewater constituents and characteristics of his discharge;
- (2) Failure to report significant changes in operations, or wastewater constituents and characteristics;
- (3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or,
- (4) Violation of conditions of the permit or permission to discharge, conditions of this ordinance, or any applicable State and Federal regulations.

Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under section 8.1 of this ordinance why the proposed action should not be taken.

8.2 Civil Penalties

(a) Any user who is found to have failed to comply with any provision of this ordinance, or the orders, rules, regulations and permits issued hereunder, may be fined up to twenty-five thousand dollars (\$25,000) per day per violation.

a. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:

i. For any class of violation, only if a civil penalty has been imposed against the violator with in the five years preceding the violation, or

ii. In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the Director of Utilities determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

(b) In determining the amount of the civil penalty, the Director of Utilities shall consider the following:

(i) The degree and extent of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;

(ii) The duration and gravity of the violation;

(iii) The effect on ground or surface water quantity or quality or on air quality;

(iv) The cost of rectifying the damage;

(v) The amount of money saved by noncompliance;

(vi) Whether the violation was committed willfully or intentionally;

(vii) The prior record of the violator in complying or failing to comply with the pretreatment program;

(viii) The costs of enforcement to the City.

- (c) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 4.2(h).

8.3 Other Available Remedies

Remedies, in addition to those previously mentioned in this ordinance, are available to the Director of Utilities who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (a) Criminal Violations.

The District Attorney for the applicable Judicial District (15A) may, at the request of the City, prosecute noncompliant users who violate the provisions of N.C.G.S. 143-215.6B. [Note: Under North Carolina law, it is a crime to negligently violate any term, condition, or requirement of a pretreatment permit, or negligently fail to apply for a pretreatment permit, issued by local governments (N.C.G.S. 143-215.6B(f)), to knowingly and willfully violate any term, condition, or requirement of a pretreatment permit, or knowingly and willfully fail to apply for a pretreatment permit, issued by local governments (N.C.G.S. 143-215.6B(g)), to knowingly violate any term, condition, or requirement of a pretreatment permit issued by local governments, or knowingly fail to apply for a pretreatment permit, knowing at the time that a person is placed in imminent danger of death or serious bodily injury, (N.C.G.S. 143-215.6B(h)), and to falsify information required under Article 21 of Chapter 143 of the General Statutes (N.C.G.S. 143-215.6B(i)).]

- (b) Injunctive Relief

Whenever a user is in violation of the provisions of this ordinance or an order or permit issued hereunder, the Director of Utilities, through the City Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question.

- (c) Water Supply Severance

Whenever an industrial user is in violation of the provisions of this ordinance or an order or permit

issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.

(d) Public Nuisances

Any violation of the prohibitions or effluent limitations of this ordinance or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the Director of Utilities. Any person(s) creating a public nuisance shall be subject to the provisions of the appropriate ordinances of the City governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

8.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Director of Utilities may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the City of Burlington's enforcement response plan. However, the Director of Utilities may take other action against any user when the circumstances warrant. Further, the Director of Utilities is empowered to take more than one enforcement action against any noncompliant user.

SECTION 9 - ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

At least annually, the Director of Utilities shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H .0903(b)(10), with applicable pretreatment standards and requirements, during the previous 12 months.

SECTION 10 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

10.1 Upset

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly

signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the Director of Utilities within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - (i) A description of the indirect discharge and cause of noncompliance;
 - (ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (iii) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

10.2 Prohibited Discharge Standards Defense

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in section 2.1 (a) of this ordinance or the specific prohibitions in sections 2.1(b) (2), (3), and (5 - 7) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge,

alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

10.3 Bypass

- (a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this section.

(b)

- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Director of Utilities, at least ten (10) days before the date of the bypass, if possible.
- (2) A user shall submit oral notice to the Director of Utilities of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director of Utilities may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(c)

- (1) Bypass is prohibited, and the Director of Utilities may take an enforcement action against a user for a bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as required under paragraph (b) of this section.
- (2) The Director of Utilities may approve an anticipated bypass, after considering its adverse effects, if the Director of Utilities determines that it will meet the three conditions listed in paragraph (c)(1) of this section.

SECTION 11 - SEVERABILITY

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

SECTION 12 - CONFLICT

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 13 - EFFECTIVE DATE

This ordinance shall be in full force and effect upon adoption by the City Council of the City of Burlington.

- F) To adopt a resolution of intent authorizing the sale of City-owned surplus real property by sealed bids with an upset bid provision. Said property is identified by ACTM 21-72, Lot 100A, plus that portion of Morehead Street owned by the City that is to be closed.

07-20

RESOLUTION OF INTENT BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, PURSUANT TO NORTH CAROLINA GENERAL STATUTES, SECTIONS 160A-268 AND 269, AUTHORIZING THE SALE BY SEALED BIDS WITH AN UPSET BID PROVISION OF CITY-OWNED SURPLUS REAL PROPERTY IDENTIFIED AS THE CLOSED PORTION OF THE RIGHT-OF-WAY OF MOREHEAD STREET BETWEEN WEST MAPLE AVENUE AND SOUTH FISHER STREET.

WHEREAS, pursuant to North Carolina General Statutes, Section 160A-299, the City Council of the City of Burlington held a public hearing on July 17, 2007, to consider permanently closing a portion of the right-of-way on Morehead Street between West Maple Avenue and South Fisher Street; and,

WHEREAS, the City Council of the City of Burlington at its meeting on July 17, 2007, adopted a resolution and order to permanently close a portion of the right-of-way on Morehead Street between West Maple Avenue and South Fisher Street to become effective thirty (30) days after the confirmation of sale of the surplus parcel of real property that shall vest in the City from the closing of said portion of Morehead Street; and,

WHEREAS, the City Council of the City of Burlington has determined that the parcel of real property that shall be vesting in the City by the closing of Morehead Street to be surplus real property; and,

WHEREAS, the City of Burlington desires to sell said surplus real property by advertisement for sealed bids with an upset bid provision pursuant to North Carolina General Statutes, Sections 160A-268 and 269.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA:

Section 1: That the appropriate official of the City of Burlington is hereby authorized by the City Council of the City of Burlington to sell certain surplus real property by

advertisement for sealed bids in accordance with North Carolina General Statutes, Sections 160A-268 and 269, said real property being a portion of right-of-way of Morehead Street between West Maple Avenue and South Fisher Street and Lot 100A, ACTM 21-72, and as more particularly described as follows:

A certain tract or parcel of land in Burlington Township, Alamance County, North Carolina, adjoining the lands of West Maple Avenue, South Fisher Street, centerline of the original Morehead Street (now closed) and others, and more particularly described as follows:

BEGINNING at a point in the northwestern right of way line of South Fisher Street, where the centerline of the original Morehead Street intersects said beginning point being located N40°36'01"E 53.01 feet from an iron pipe corner with First Presbyterian Church where it intersects the northwestern right-of-way line of South Fisher Street, running thence along the centerline of the original Morehead Street N05°46'55"E 296.96 feet to a point in a curve of the southwestern right-of-way line of West Maple Avenue; running thence along the southwestern right of way line of West Maple Avenue, a curve to the left having a chord bearing and distance of S28°55'15"E 67.65 feet, radius of 268.73 feet to a concrete right-of-way monument; thence continuing along a curve to the left having a chord bearing and distance of S42°40'07"E 61.00 feet, radius of 268.73 feet to a point of tangency; thence continuing along the southwestern right-of-way line of West Maple Avenue S49°17'44"E 30.98 feet to an iron pipe; thence continuing with said right of way line of West Maple Avenue S01°57'20"E 33.88 feet to iron pipe in the northwestern right-of-way line of South Fisher Street; running thence along the southwestern right-of-way line of South Fisher Street the following two courses and distances: (1) S45°23'04"W 99.48 feet to a concrete right of way monument; (2) S40°36'01"W 88.83 feet to the POINT OF BEGINNING and containing 17,026 square feet and being the original island between West Maple Avenue, South Fisher Street and Morehead Street, and one-half of the 50 foot right-of-way of Morehead Street.

The foregoing description was obtained from a survey and map prepared by Alley, Williams, Carmen and King, Engineers, Architects, and Surveyors, dated May 29, 2007, Job No.06128, entitled Exhibit Map For: Property of City of Burlington.

There is a 30-foot sanitary sewer easement and a 20-foot water line easement located upon and crosses premises surveyed and described above.

Section 2: That the appropriate City official shall cause to be published at least once and not less than thirty (30) days before said closing time and date for acceptance of sealed bids in accordance with North Carolina General Statutes, Sections 160A-268 and 269.

Section 3: That the City of Burlington, upon confirmation of this sale, shall convey by Quitclaim Deed all of its right, title and interest in and to said property, and said property shall be conveyed subject to all existing rights-of-way and utility and/or other easements, outstanding liens, judgments and any and all other existing encumbrances.

Section 4: The City reserves and retains the right to reject any and all bids and otherwise withdraw from sale or readvertise said property for sale upon terms and conditions as allowed by law governing sales of surplus real property.

Section 5: That this resolution shall take effect upon passage.

- G) To reclassify the current Deputy Police Chief (Lt. Colonel) position from Level 33 to (Major) Level 32 and the current Major's position, Level 31, to Level 32.
- H) To reclassify the Golf Pro position, Level 25, to Golf Manager, Level 24.
- I) To approve a final plat of right-of-way dedication and right-of-way abandonment for Alamance Crossing, LLC. The property is located south of Garden Road, east of University Drive, west of Westview Terrace and north of Interstate 85/40 as shown on plans by MSS Land consultants, PC, dated July 6, 2007, and containing two lots.
- J) To approve a final plat of the Waterford West Subdivision, Phase 1. The property is located on the west side of University Drive and south side of South Church Street as shown on plans by Alley, Williams, Carmen and King, Inc., dated July 3, 2007, and containing 61 lots.
- K) To approve a final plat of Phase 4, Woods at Grove Park Subdivision. The property is located on the north side of South Mebane Street between Alamance Road and Columbine Lane as shown on plans by Simmons Engineering and Surveying, Inc., dated July 4, 2007, and containing eight lots.

L) To approve a final plat presented by Burlington Investment, LLC, for a sanitary sewer easement and right-of-way dedication for Ashley Furniture. The property is located on the southwest side of University Drive as shown on plans by Hugh Creed Associates, Inc., PA, dated July 2, 2006, and containing one lot.

M) Budget Amendment 2008-03 - ASA National Men's Senior Softball Tournament

BA2008-03

Increase Revenues:

010-35202-6230 ASA Softball Tournament Receipts \$66,000

Increase Expenditures:

010-62623-6009 ASA Softball Tournament \$66,000

N) Budget Amendment 2008-04 - Fire - NC Department of Health & Human Services Grant - Advertising

BA2008-04

Increase Revenues:

010-33107-5310 Fire Grants \$2,000

Increase Expenditures:

010-53534-2600 Advertising/Publications \$2,000

O) Budget Amendment 2008-05 - Purchase of Electrical Switchgear for East Burlington Waste Water Treatment Plant

BA2008-05

Increase Revenues:

030-39398-0000 Appropriated Fund Balance \$27,255

Increase Expenditures:

030-86806-7200 Buildings (Plant) \$27,255

P) Budget Amendment 2008-06 - Establish a Capital Project Ordinance for the continued conversion of the GIS System for Utilities - Contingent upon the City Attorney's approval

BA2008-06

Increase Revenues:

030-39398-0000 Appropriated Fund Balance \$235,700

Increase Expenditures:

030-66661-9100 Operating Transfers Out \$435,700

Decrease Expenditures:

030-70700-4512 Contracted Services \$200,000

GEOGRAPHIC INFORMATION SYSTEM FOR UTILITIES PROJECT ORDINANCE

BA2008-06

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BURLINGTON, NORTH CAROLINA, that pursuant to Section 13.2, Chapter 159, of the General Statutes of North Carolina, the following project ordinance is hereby adopted:

Sec. 1. The project authorized is the development of the GIS System for water and sewer mapping in the City of Burlington, North Carolina.

Sec. 2. The officials of the City of Burlington are hereby directed to proceed with this project within the budget outlined in this project ordinance.

Sec. 3. The following revenues are anticipated to be available to the City to complete the project:

443-38390-0030 Operating Transfers In \$435,700

Sec. 4. The following amounts are appropriated for the project:

443-60000-1900 Professional Services \$435,700

Sec. 5. The Finance Director shall report on the financial status of this project as directed by the City Council and shall inform the Council of any unusual occurrences.

Sec. 6. Copies of this project ordinance shall be made available to the Budget Officer and the Finance Director for direction in carrying out this project.

Sec. 7. That this ordinance shall take effect upon passage.

Q) To make appointments to advisory boards and commissions as follows:

1. Board of Adjustment
Eric Grant
Lee Isley
2. Community Appearance Advisory Commission
Charles "Pete" McCall
Hayden Beatty
Linda Ellington
3. Burlington-Graham Board of Alcoholic Control
Wade Montgomery
4. Burlington Housing Authority
Richard Parker
Grover Moore
5. Burlington Housing Commission
John Stubblefield
John Treadwell
Carol Wade
6. Burlington Historic Preservation Commission
Wendy Grady
Paul Crellin
Kenneth Mimich
7. Planning and Zoning Commission
Paul E. Cobb, Jr.
John Black
8. Recreation and Parks Commission
Peggy Parks
Cynthia Winters
Bob Chandler
9. Traffic Commission
Vic Seamon
Jim Butler
Thomas Saunders

CONSENT AGENDA:

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Jones to recuse himself from consideration of consent agenda Item I because his law partner, Mr. Lawson Brown, represents the petitioner.

Upon motion by Councilmember Jones, seconded by Councilmember Starling, it was resolved unanimously to allow Councilmember Wall to recuse himself from consideration of Consent Agenda Item D.

Councilmember Jones stated that he had talked with City Attorney Bob Ward concerning Consent Agenda Item J, Waterford West Subdivision. Mr. Jones explained that he owns a lot in Waterford Subdivision but in a different phase. He said that after discussing the matter with Mr. Ward, since there is no discretionary decision and that all requirements of the plat have been met, that is it per functionary and that he has no interest in Waterford West Subdivision that he could vote.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve the foregoing Consent Agenda with the exception of Items D and I.

Upon motion by Councilmember Huffman, seconded by Councilmember Jones, it was resolved unanimously to approve Consent Agenda Item D. Councilmember Wall abstained.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to approve Consent Agenda Item I. Councilmember Jones abstained.

UNFINISHED BUSINESS:

ITEM 2: REZONE PROPERTY - DIGITAL OUTDOOR ADVERTISING STRUCTURE (CONTINUED FROM MAY 15, 2007, CITY COUNCIL MEETING)

Mayor Ross announced that a public hearing had been continued to consider rezoning from I-1, Planned Industrial District, to CI, Conditional Industrial District, to allow for the construction of a digital outdoor advertising structure. The property is located on Lawndale Drive south of Interstate 85/40 and west of Cedarcrest Drive as shown on Alamance County Tax Map 6-5, a portion of Lot 16. (Continued from the May 15, 2007, City Council meeting.)

Mr. Charles Bateman explained the sign would be located on a one-half acre tract and that the remaining four acres would be subdivided and conveyed to United Pentecostal Church, an adjacent property owner that is expanding rapidly. Mr. Bateman stated that details were discussed at the previous public

hearing and that this would be an appropriate use of the property. He stated that as a condition of this rezoning, the petitioner would offer an additional condition to the effect that none of the remaining property currently owned by the applicant, including the portion to be conveyed, could be used for outdoor advertising off-premise structures. Mr. Bateman pointed out that there were several members of the Board of Trustees from the church present.

Councilmember Huffman inquired about the present sign on the property and Mr. Bateman replied that the "For Sale" sign would be removed.

Mr. Bateman stated this rezoning request was approved by the Planning and Zoning Commission.

Mr. Charles Massey, church member, stated that the church is progressive and growing and expressed the need for more room in the near future. He asked that the rezoning be approved.

Upon motion by Councilmember Starling, seconded by Councilmember Huffman, it was resolved unanimously to close the public hearing.

Mr. Bateman reiterated that the additional covenant and zoning condition would restrict all use of the remaining portion of the property, Lots A and B, so that off-premises outdoor advertising structures shall be prohibited.

Councilmember Jones moved to approve the rezoning including the additional aforementioned restriction.

Councilmember Huffman said this request was replacement of a sign. He stated that he hoped the City Council would consider amendments to the Zoning Ordinance to eliminate the risk of a proliferation of signs in the interstate corridor.

07-27

ORDINANCE TO AMEND OFFICIAL ZONING MAP (Rezone Property for Installation of LED Outdoor Advertising Structure)

BE IT ORDAINED by the City Council of the City of Burlington, North Carolina:

Section 1. That the official zoning map, an element of the Burlington Zoning Ordinance, and the Comprehensive Land Use Plan are hereby amended by rezoning from I-1, Planned

Industrial District, to CI, Conditional Industrial District, subject to those conditional uses with limitations as set forth in Sections 2, 3 and 4 of this ordinance the area described as follows:

Property located on Lawndale Drive south of Interstate 85/40 and west of Cedarcrest Drive as shown on Alamance County Tax Map 6-5, a portion of Lot 16.

Section 2. That the rezoning from I-1 to CI is hereby authorized subject to the following Use and Development Conditions:

Use Conditions

Area to be rezoned to Conditional Industrial District to be used only for installation and operation of one LED outdoor advertising structure. The remainder of Lot 16, excluding sign location and easements for access to the sign structure, shall be conveyed to the adjacent church, Pentecostal Church of Burlington, Inc.

Development Conditions

- 1) All setback and size limitations established for outdoor advertising structures within I-2, Light Industrial, zones shall apply.
- 2) Additional outdoor advertising structures are prohibited on Lots A and B.

Section 3. This property will be perpetually bound to the uses authorized and subject to such conditions as imposed including site plans and other submissions, unless subsequently changed or amended as provided for in the City of Burlington Zoning Ordinance.

Section 4. Any violations or failure to accept any conditions and use limitations imposed herein shall be subject to the remedies provided in the City of Burlington Code of Ordinances and Zoning Ordinance.

Section 5. That all ordinances or parts of ordinances inconsistent or in conflict with this ordinance are hereby repealed.

Section 6. That this ordinance shall take effect upon passage.

The foregoing ordinance was seconded by Councilmember Wall, and after full discussion, the same was voted upon and declared duly adopted, no amendments having been offered and consent having been given to place the same upon its immediate passage. Councilmembers voting in favor of the motion to adopt the foregoing ordinance were Ross, Jones, Huffman, Starling and Wall.

PUBLIC HEARING:

ITEM 3: ADOPT STORMWATER PERMIT FEE

Mayor Ross announced that a public hearing had been scheduled to consider the adoption of a Stormwater Permit Fee in the amount of \$420.00 in accordance with General Statute 160A-314.

Mr. Bob Patterson, Assistant Public Works Director and Stormwater Manager, explained a major component of the Stormwater Ordinance approved in June and effective July 1, 2007, is stormwater permitting of new development or development of sites one acre or greater or those part of a larger common plan of development. He explained that once the Stormwater Permit Fee is established, any changes would be made on an annual basis as part of the City fee schedule approval. He stated the initial permit fee of \$420 for each permit is equivalent to that charged by NCDENR for State Stormwater Permits where the state has Stormwater permitting jurisdiction. He pointed out that the Stormwater Permit Fee is a separate fee from the Stormwater Utility Fee implemented in 2005.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to close the public hearing.

Upon motion by Councilmember Huffman, seconded by Councilmember Wall, it was resolved unanimously to adopt the Stormwater Permit fee.

NEW BUSINESS:

ITEM 4: CONSENT TO SALE - AIRPORT LAND

Mayor Ross announced that the City Council would consider a request from the Burlington-Alamance Airport Authority to sell 90 acres of land to American Honda Motor Company for the sum of \$101.00.

Mr. Brian Gavigan stated that the sell of this property required the consent of the Alamance County Commissioners and the Burlington City Council. He stated consent had been given by the Commissioners on August 6, 2007. He asked for the Council's approval. He explained that the property would be conveyed to American Honda Motor and that the agreement allows the Airport Authority to convey the property to that subsidiary.

Councilmember Huffman pointed out that it is important for citizens to know that the City does not own the property, that the Airport Authority is a free-standing board set up by statutory authority. He explained that the original charter for the Airport Authority requires approval of the City Council and Alamance County Commissioners.

Mayor Ross stated this project is a good example of a public-private partnership. He stressed that the project was finalized because of a commitment of the following local banks: BB&T, Capital Bank, Carolina Bank, Fidelity Bank, MidCarolina Bank, Randolph Bank, SunTrust Bank, Vantage South Bank and Wachovia Bank. Mayor Ross thanked the consortium of banks and stated that it was a great tribute to the community and the business environment.

Councilmember Starling stated this project was a good example of what private and municipal governments can do when working together.

Upon motion by Councilmember Huffman, seconded by Councilmember Starling, it was resolved unanimously to authorize to sell 90 acres of land to American Honda Motor Company for the sum of \$101.00.

PUBLIC COMMENT PERIOD:

There was no public comment.

GANG ACTIVITY UPDATE

Police Chief Williams stated that in 2006 the Police Department formed a formal gang unit that consisted of one grant-funded position, and that in July 2007 a second grant-funded position was added. He stated that all officers have been trained in gang awareness and recognition and that a monthly newsletter is being published to keep officers up-to-

date. He stated that awareness training has been done in schools, churches and other venues. He explained that the second gang investigator would be assigned strictly to suppression.

Mayor Ross expressed displeasure with the NC Senate for not having passed the anti-gang legislation.

ADJOURN:

Upon motion by Councilmember Wall, seconded by Councilmember Starling, it was resolved unanimously to adjourn.

Jondeen D. Terry
City Clerk